



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-054]

Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain aluminum foil (aluminum foil) from the People's Republic of China (China). The period of investigation is January 1, 2016, through December 31, 2016. For information on the estimated subsidy rates, *see* the “*Final Determination and Suspension of Liquidation*” section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3813.

SUPPLEMENTARY INFORMATION:

*Background*

Commerce published the *Preliminary Determination* on August 14, 2017.<sup>1</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the

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<sup>1</sup> *See Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 37844 (August 14, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

Issues and Decision Memorandum<sup>2</sup> issued concurrently with this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

### *Scope Comments*

We invited parties to comment on Commerce's Preliminary Scope Memorandum.<sup>3</sup> Commerce has reviewed the briefs submitted by interested parties, considered the arguments therein, and has made changes to the scope of the investigation. For further discussion, *see* Commerce's Final Scope Decision Memorandum.<sup>4</sup>

### *Methodology*

Commerce is conducting this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (Act). For each of the subsidy programs found to be countervailable, we determine that there is a subsidy (*i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient) and that the subsidy is specific. For a full

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<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

<sup>3</sup> See Memorandum, "Certain Aluminum Foil from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 26, 2017, and filed to ACCESS on October 30, 2017.

<sup>4</sup> See Memorandum, "Certain Aluminum Foil from the People's Republic of China: Final Scope Decision Memorandum," dated concurrently with this memorandum.

description of the methodology underlying our final determination, *see* the Issues and Decisions Memorandum.

### *Scope of the Investigation*

The merchandise covered by this investigation is aluminum foil from China. For a complete description of the scope of this investigation, *see* Appendix II.

### *Verification*

As provided in section 782(i) of the Act, in November 2017, we conducted verification of the questionnaire responses submitted by Dingsheng Aluminum (Hong Kong) Trading Co., Ltd. (Dingsheng HK) and Jiangsu Zhongji Lamination Materials Co., Ltd. (Zhongji). We issued verification reports on November 25, 2017.<sup>5</sup> We used standard verification procedures, including an examination of relevant accounting and financial records, and original source documents provided by Dingsheng HK and Zhongji.

### *Analysis of Subsidy Programs and Comments Received*

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

### *Use of Adverse Facts Available (AFA)*

For purposes of this final determination, we relied on facts available, and because certain respondents did not act to the best of their ability in responding to Commerce's requests for

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<sup>5</sup> *See* Commerce Memoranda, "Verification of the Questionnaire Responses of Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd.: Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China," (Dingsheng Verification Report) and "Verification of the Questionnaire Responses of Jiangsu Zhongji Lamination Materials Co., Ltd.: Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China," (Zhongji Verification Report), both dated November 25, 2017.

information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.<sup>6</sup> The subsidy rates for Lofton Aluminum (Hong Kong) Limited and Manakin Industries, LLC, are based totally on AFA. A full discussion of our decision to rely on adverse facts available is presented in the “Use of Facts Otherwise Available and Adverse Inferences” section of the Issues and Decisions Memorandum.

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<sup>6</sup> See sections 776(a) and (b) of the Act.

### *Changes Since the Preliminary Determination*

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum and the Final Calculation Memoranda.<sup>7</sup>

### *All-Others Rate*

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated.

In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the "all-others" rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs Commerce to establish an "all-others" rate using "any reasonable method."

Pursuant to section 705(c)(5)(A)(i) of the Act, we have calculated the "all-others" rate using the subsidy rates of Dingsheng HK and Zhongji, the only two mandatory respondents not receiving a subsidy rate based totally on section 776 of the Act. However, we have not

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<sup>7</sup> See Memoranda, "Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Determination Calculation Memorandum for Dingsheng Aluminum (Hong Kong) Trading Co., Ltd.," dated February 26, 2018 (Dingsheng Final Calculation Memorandum) and "Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Determination Calculation Memorandum for Zhongji Lamination Materials Co., Ltd.," dated February 26, 2018 (Zhongji Final Calculation Memorandum).

calculated the “all-others” rate by weight-averaging these two rates because doing so risks disclosure of proprietary information. Therefore, and consistent with Commerce’s practice, for the “all-others” rate, we calculated a simple average of these two mandatory respondents’ subsidy rates.

#### *Final Determination*

<b>Company</b>	<b>Subsidy Rate</b>
Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. <sup>8</sup>	19.98 percent
Jiangsu Zhongji Lamination Materials Co., Ltd. <sup>9</sup>	17.14 percent
Loften Aluminum (Hong Kong) Limited	80.97 percent
Manakin Industries, LLC <sup>10</sup>	80.97 percent
All-Others	18.56 percent

#### *Disclosure*

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

#### *Suspension of Liquidation*

<sup>8</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Dingsheng HK: Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.; Hangzhou Teemful Aluminum Co., Ltd.; Hangzhou Five Star Aluminum Co., Ltd.; Hangzhou DingCheng Aluminum Co., Ltd.; Luoyang Longding Aluminum Co., Ltd.; Hangzhou Dingsheng Industrial Group Co., Ltd.; Hangzhou Dingsheng Import & Export Co., Ltd.; and Walson (HK) Trading Co., Limited.

<sup>9</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Zhongji: Shantou Wanshun Package Material Stock Co., Ltd.; Jiangsu Huafeng Aluminum Industry Co., Ltd.; and Jiangsu Zhongji Lamination Materials Co., (HK) Ltd.

<sup>10</sup> As discussed in the Preliminary Decision Memorandum, Commerce finds that Manakin Industries and Suzhou Manakin Aluminum Processing Technology Co., Ltd., effectively function by joint operation as a trading company. Therefore, the rate for Manakin Industries also applies to Suzhou Manakin Aluminum Processing Technology Co., Ltd. For additional information, see Preliminary Decision Memorandum and Issues and Decision Memorandum.

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from the PRC that were entered or withdrawn from warehouse, for consumption, on or after August 14, 2017, the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, on December 12, 2017, we instructed CBP to discontinue the suspension of liquidation of all entries at that time.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order, will reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

#### *International Trade Commission Notification*

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

#### *Notification Regarding Administrative Protective Orders*

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

*Return or Destruction of Proprietary Information*

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

*Notification to Interested Parties*

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.



*Dated: February 26, 2018.*

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Prentiss Lee Smith,  
Deputy Assistant Secretary  
for Policy and Negotiations.

## **Appendix I**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Scope Comments
- V. Application of the Countervailing Duty Law to Imports from the PRC
- VI. Subsidies Valuation Information
- VII. Benchmarks and Discount Rates
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Analysis of Programs
- X. Analysis of Comments
  - Comment 1: Whether Commerce Erred in its Treatment of Manakin
  - Comment 2: Whether the Record Supports a Finding of Policy Lending
  - Comment 3: Whether Chinese Commercial Banks are Government Authorities
  - Comment 4: Whether Commerce's Policy Lending Benchmark Interest Rate Computations are Supported by the Record and Lawful
  - Comment 5: Whether Commerce's Investigation of Uninitiated Programs is Lawful
  - Comment 6: Whether Commerce Should Change its Export Buyer's Credit Determination
  - Comment 7: Whether Commerce Should Use the USD Interest Rate Benchmark for Hong Kong Loans
  - Comment 8: Whether Loans Issued in Hong Kong to Hong Kong Companies Are Countervailable
  - Comment 9: Whether Commerce Should Revise Dingsheng's Sales Denominator
  - Comment 10: Whether Commerce Should Correct Calculation Errors for Dingsheng's Loans
  - Comment 11: Whether Commerce Should Correct Calculation Errors for Dingsheng's Aluminum and Coal Purchases
  - Comment 12: Whether Commerce Should Place Interest Rate Benchmarks on the Record That Are Contemporaneous to the POI
  - Comment 13: Whether Commerce Should Rely on AFA For Subsidies Discovered at Zhongji's verification
  - Comment 14: Whether Commerce Should Grant Zhongji an Export Value Adjustment
  - Comment 15: Whether Commerce Improperly Rejected Dingsheng's Benchmark Data
  - Comment 16: Whether Commerce Should Revise the Benchmarks for Primary Aluminum
  - Comment 17: Whether the GOC Provided Sufficient Evidence to Find That Input Suppliers Were Not Government Authorities
  - Comment 18: Whether CCP Affiliations or Activities by Company Officials Make a Company a Government Authority
  - Comment 19: Whether the Primary Aluminum and Steam Coal for LTAR Programs are Specific

- Comment 20: Whether Commerce Must Use a Tier-One Benchmark for the Primary Aluminum and Steam Coal for LTAR Programs
  - Comment 21: Whether Dingsheng's Income Tax Deductions for R&D Expenses are Understated
  - Comment 22: Whether Commerce Selected the Highest Electricity Rate Benchmarks
  - Comment 23: Whether Commerce Should Apply AFA for Electricity
  - Comment 24: Whether Commerce Should Adjust the Electricity Benchmark for VAT
  - Comment 25: Whether Electricity Constitutes General Infrastructure and Provides a Financial Contribution
  - Comment 26: Whether Commerce Should Rely on Xeneta Data for Freight Benchmark
  - Comment 27: Whether Commerce Should Find Non-Use of Steam Coal
- XI. Recommendation

## **Appendix II**

### **Scope of the Investigation**

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope, including aluminum foil to which lubricant has been applied to one or both sides of the foil.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on one side or both sides of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6000, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000. Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

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